

December 30, 1992

Mr. Stanley Y. H. Siu  
Administrator  
Employees' Retirement System  
Department of Budget and Finance  
201 Merchant Street, Suite 1400  
Honolulu, Hawaii 96813-2980

Attention: Mr. David Y. Shimabukuro  
Assistant Administrator

Dear Mr. Siu:

Re: Minutes of Employees' Retirement System Meetings

This is in reply to a memorandum to the Office of Information Practices ("OIP") from David Y. Shimabukuro, Assistant Administrator, State of Hawaii Employees' Retirement System ("ERS"). In his memorandum to the OIP, Mr. Shimabukuro requested an advisory opinion concerning the public's right to inspect and copy both unapproved and approved minutes of the meetings of the ERS' Board of Trustees ("Board") and of the Board's Investment Committee ("Committee").

Mr. Shimabukuro's memorandum to the OIP also requested an advisory opinion regarding disclosure of "buy/sell" recommendations made by the ERS' investment advisors and the performance evaluations of these advisors prepared by ERS consultants. The OIP will address these additional questions in a separate advisory opinion letter to be issued at a later date.

#### **ISSUES PRESENTED**

I. Whether, under the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes ("UIPA"), final draft meeting minutes that are presented to the Board or Committee for approval ("proposed minutes") must be made available for public inspection and copying upon request.

II. Whether, under the UIPA, the minutes of Board and Committee meetings must be made available for public inspection

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and copying: (1) upon the Board's or the Committee's approval of the proposed minutes or upon approval of the proposed minutes with corrections or amendments, or (2) at any time before the end of the thirty-day period specified in section 92-9(b), Hawaii Revised Statutes, notwithstanding the fact that those minutes have been approved by Board or Committee action.

### **BRIEF ANSWERS**

I. Yes. Because proposed minutes are not the "official" record of Board and Committee meetings, we conclude that the "minutes" required to be publicly disclosed under sections 92-9 and 92F-12(a)(7) and (16), Hawaii Revised Statutes, do not include minutes that have not yet been approved by the trustees.

However, the proposed minutes are nonetheless "government records" under the UIPA, and each agency must make government records available for inspection and copying upon request, except as provided in section 92F-13, Hawaii Revised Statutes. Haw. Rev. Stat. § 92F-11(b) (Supp. 1991).

In previous OIP advisory opinions, the OIP determined that the UIPA's "frustration of a legitimate government function" exception permits agencies to withhold access to inter-agency and intra-agency memoranda that are protected by the common law "deliberative process privilege." Additionally, based upon federal court decisions under the federal Freedom of Information Act, 5 U.S.C. § 552 (1988), the OIP has found that certain "draft" agency records may be withheld under section 92F-13(3), Hawaii Revised Statutes, because disclosure would reveal the agency's deliberative process. However, in this case, the "deliberative process" involved in arriving at the official version of the minutes is itself exposed to the public at public agency meetings. Therefore, we conclude that proposed minutes are not protected by the "deliberative process privilege."

Because we find that none of the UIPA exceptions to required agency disclosure applies to the proposed minutes of Board and Committee meetings, we conclude that they must be made available for public inspection and copying under the UIPA, upon request. However, we believe that the "deliberative process privilege" would apply to drafts of meeting minutes that precede the final draft submitted to the Board or Committee for its approval.

II. Section 92-9(b), Hawaii Revised Statutes, provides that the minutes of a meeting of a board shall be public records and "shall be available within thirty days after the meeting." In our opinion, to find that section 92-9(b), Hawaii Revised Statutes, authorizes an agency to withhold minutes from the public until the end of the thirty-day period, notwithstanding the fact that they have been officially approved by the Board or the Committee, would be contrary to the clearly expressed

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legislative intent underlying both the open meetings and open records laws. Both chapters 92 and 92F, Hawaii Revised Statutes, expressly declare that it is the policy of this State that the conduct of public policy--the discussion, deliberations, decisions, and action of government agencies--shall be conducted as openly as possible. Also, section 92-1(1), Hawaii Revised Statutes, provides that the provisions of the open meetings law "shall be liberally construed."

Accordingly, we conclude that the minutes of ERS meetings required to be public by part I of chapter 92, Hawaii Revised Statutes, must be made available upon the Board's or the Committee's approval of the proposed minutes, irrespective of the fact that the thirty-day period set forth in section 92-9(b), Hawaii Revised Statutes, has not yet expired. We also conclude that if the proposed minutes are approved by an agency with corrections or amendments, then the minutes, in their approved form, shall be made available for inspection and copying upon correction or amendment by the agency. In any event, minutes of public agency meetings shall be made available to the public within thirty days after the meeting to which they relate, subject to the exception set forth in section 92-9(b), Hawaii Revised Statutes, for minutes of closed board meetings. Haw. Rev. Stat. § 92-9(b) (1985).

### FACTS

Generally, the Board and the Committee each hold two meetings every month. The proposed minutes for each meeting are presented to the Board or the Committee, as the case may be, for official approval at the next meeting. The minutes are either approved as drafted by the ERS staff, or approved with corrections or amendments. The ERS personnel makes any approved corrections or amendments to the minutes.

According to the ERS, the availability of minutes of Board and Committee meetings is subject to part I of chapter 92, Hawaii Revised Statutes, the State's "open meetings" or "sunshine" law. Section 92-9, Hawaii Revised Statutes, states in relevant part:

**§92-9 Minutes.** (a) The board shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meetings is required, but the written minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants  
. . . . .

(b) The minutes shall be public records and shall be available within thirty days

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after the meeting except where disclosure  
would be inconsistent with section 92-5;

. . . .

Haw. Rev. Stat. § 92-9(a) & (b) (1985) (emphasis added).

Mr. Desmond J. Byrne of Honolulu Information Service requested the ERS to make available for his inspection and copying both the unapproved and approved minutes of Board and Committee meetings. In a memorandum to the OIP dated September 23, 1992, the ERS stated its objection to disclosure of the minutes before formal approval by the ERS trustees, because "there are times when the Minutes must be amended," and the changes can be "significant." The ERS further stated in its memorandum to the OIP that it would "want to make the Minutes available within the 30-day period per section 92-9(b), HRS because of our staffing problems."

In his letter to the OIP dated September 30, 1992, Mr. Byrne requested an advisory opinion from the OIP concerning the thirty-day limit in section 92-9(b), Hawaii Revised Statutes. Mr. Byrne's letter to the OIP stated that "if the minutes have been produced and adopted then they should be available, and the public does not have to wait until 30 days have elapsed." Mr. Byrne also requested an opinion on the interpretation of section 92-9(b), Hawaii Revised Statutes, from Attorney General Robert A. Marks. By letter dated October 22, 1992, Charleen M. Aina, Deputy Attorney General, explained the ERS' policy concerning the availability of Board and Committee minutes:

Drafts of proposed minutes are prepared as expeditiously as possible within staff constraints and workloads. Those proposed minutes are then presented for review, approval or amendment at the next meeting of the Board. Upon approval and amendment, the minutes are made available. In all events, minutes are made available within thirty days after the meeting to which they relate.

Letter from Charleen M. Aina, Deputy Attorney General, to Desmond Byrne (Oct. 22, 1992).

## DISCUSSION

### I. INTRODUCTION

The UIPA generally provides that "[a]ll government records are open to public inspection unless access is restricted or closed by law." Haw. Rev. Stat. § 92F-11(a) (Supp. 1991). The term "government record" means "information maintained by an agency in written, auditory, visual, electronic, or other

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physical form." Haw. Rev. Stat. § 92F-3 (Supp. 1991). The UIPA further provides that unless one of the exceptions set forth in section 92F-13, Hawaii Revised Statutes, authorizes an agency to withhold access to government records, they must be made available for inspection and copying "upon request by any person." Haw. Rev. Stat. § 92F-11(b) (Supp. 1991).

In addition to the disclosure of government records required by the UIPA general disclosure provisions, in section 92F-12, Hawaii Revised Statutes, the Legislature set forth a list of government records, or information contained therein, that an agency must make available for public inspection and copying "[a]ny provision to the contrary notwithstanding." Subsection (a) of section 92F-12, Hawaii Revised Statutes, provides in pertinent part:

**§92F-12 Disclosure required.** (a) Any provision to the contrary notwithstanding, each agency shall make available for public inspection and duplication during regular business hours:

. . . .

(7) Minutes of all agency meetings required by law to be public;<sup>1</sup>

. . . .

(16) Information contained in or compiled from a transcript, minutes, report, or summary of a proceeding open to the public.

Haw. Rev. Stat. § 92F-12(a)(7) & (16) (Supp. 1991), Act 185, 1992 Haw. Sess. Laws 368 (1992).

The "law" that requires agency meetings to be public is found in part I of chapter 92, Hawaii Revised Statutes, the State's "open meetings" or "sunshine" law.<sup>2</sup> This law requires

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<sup>1</sup>The words "required by law to be public" modify "agency meetings," rather than "minutes," as the legislative history of this provision makes clear: "Your Committee amended this subparagraph to limited disclosure of minutes of agency meetings to those required by law to be public. This avoids the conflict with laws that presently allow confidential meetings, as with executive meetings under Section 92-4, Hawaii Revised Statutes, and related laws." H. Stand. Comm. Rep. No. 342-88, 14th Leg., 1988 Reg. Sess., Haw. H.J. 969, 972 (1988).

<sup>2</sup>Additionally, we observe that section 88-103(a), Hawaii

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that "[e]very meeting of all boards shall be open to the public . . . unless otherwise provided in the constitution or as closed pursuant to sections 92-4 [executive meetings] and 92-5

[exceptions to open meetings]." Haw. Rev. Stat. § 92-3 (Supp. 1991). Thus, if the Board and Committee meetings to which the minutes relate are required by part I of chapter 92, Hawaii Revised Statutes, to be public, then the ERS must disclose the minutes of those meetings under the UIPA.

We first examine whether the proposed minutes of public agency meetings must be made available for inspection and copying under the UIPA.

## II. AVAILABILITY OF PROPOSED MINUTES OF PUBLIC AGENCY MEETINGS

It is not clear whether the term "minutes" as used in sections 92-9 and 92F-12(a), Hawaii Revised Statutes, encompasses proposed minutes. Section 1-14, Hawaii Revised Statutes, provides that "words of a law are generally to be understood in their most known and usual signification, without attending so much to the literal and strictly grammatical construction of the words as to their general or popular use or meaning." [Emphases added.]

In Webster's Ninth New Collegiate Dictionary, the word "minutes" is defined as "the official record of the proceedings of a meeting." Webster's Ninth New Collegiate Dictionary 757 (1988) (emphasis added). See also The American Heritage Dictionary 801 (2d College Ed. 1982) ("[a]n official record of proceedings at the meeting of an organization"); Webster's Third New International Dictionary 1440 (1967) ("a series of brief notes taken to provide a record of proceedings (as of an assembly or conference) or of transactions (as of the directors of a corporation); specif: an official record composed of such notes").

Because proposed minutes are not the "official" record of Board and Committee meetings, we believe that the "minutes" required to be publicly disclosed under sections 92-9 and 92F-12(a), Hawaii Revised Statutes, do not include minutes that have not yet been approved by the trustees. However, this does not end our analysis of the question presented.

Although sections 92-9(b) and 92F-12(a), Hawaii Revised Statutes, may not expressly require the disclosure of proposed

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Revised Statutes, requires that the board of trustees of the ERS "shall keep a record of all its proceedings which record shall be open to public inspection."

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minutes, the proposed minutes are nonetheless "government records" subject to the UIPA's public access provisions.<sup>3</sup> As stated earlier, the UIPA requires that each agency make government records available for inspection and copying upon request, except as provided in section 92F-13, Hawaii Revised Statutes. Haw. Rev. Stat. § 92F-11(b) (Supp. 1991). Therefore, unless one of the exceptions listed in section 92F-13, Hawaii Revised Statutes, applies, the ERS must make the proposed minutes publicly available.

In reviewing the five exceptions listed in section 92F-13, Hawaii Revised Statutes, we conclude that paragraphs (1), (2), (4), and (5) do not apply to the facts presented. Section 92F-13(3), Hawaii Revised Statutes, provides an exception to required agency disclosure for "[g]overnment records that, by their nature, must be confidential in order for the government to avoid the frustration of a legitimate government function." Proposed minutes do not fall within the examples set forth in the UIPA's legislative history of records that may be withheld if disclosure would result in the frustration of a legitimate government function. See S. Stand. Comm. Rep. No. 2580, 14th Leg., 1988 Reg. Sess., Haw. S.J. 1093, 1095 (1988).

In previous OIP advisory opinions, the OIP determined that this UIPA exception also permits agencies to withhold access to inter-agency and intra-agency memoranda that are protected by the common law "deliberative process privilege." See OIP Op. Ltr. No. 90-8 (Feb. 12, 1990) (drafts and staff notes); OIP Op. Ltr. No. 90-21 (June 20, 1990) (consultant's report); OIP Op. Ltr. No. 91-16 (Sept. 19, 1991) (draft master plan); OIP Op. Ltr. No. 91-24 (Nov. 26, 1991) (interview panelists' notes).

To qualify for protection by the "deliberative process privilege," the memorandum must be both "predecisional" and "deliberative." To be "predecisional," a government record must be "received by the decisionmaker on the subject of the decision prior to the time the decision is made." NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 151 (1984). To be "deliberative," the government record must reflect the "give and take" of the agency's consultative process. See OIP Op. Ltr. No. 91-24 at 7

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<sup>3</sup>Although one might infer that by requiring the availability of the official minutes of agency meetings the Legislature intended to permit agencies to withhold access to proposed minutes, the UIPA's exceptions to required disclosure are set forth in section 92F-13, Hawaii Revised Statutes. Section 92F-12(a), Hawaii Revised Statutes, "merely addresses some particular cases by unambiguously requiring disclosure." S. Conf. Comm. Rep. No. 235, 14th Leg., 1988 Reg. Sess., Haw. S.J. 689, 690 (1988); H. Conf. Comm. Rep. No. 112-88, Haw. H.J. 817, 818 (1988).

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(Nov. 26, 1991).

In the OIP advisory opinions noted above, the OIP found that there are various policy reasons underlying the "deliberative process privilege." In OIP Opinion Letter No. 90-8 (Feb. 12, 1990), we found that disclosure of predecisional and deliberative records "would frustrate agency decision-making functions, such as the resolution of issues and the formulation of policies." Further, the "candid and free exchange of ideas and opinions within and among agencies is essential to agency decision-making and is less likely to occur when all memoranda for this purpose are subject to public disclosure." Id. at 5.

Significantly, draft documents are "very likely" to be protected by the deliberative process privilege. Office of Information and Privacy, U.S. Dep't of Justice, Freedom of Information Act Guide & Privacy Act Overview 113 (1992) (citing federal court decisions under Exemption 5 of the federal Freedom of Information Act, 5 U.S.C. § 552(b)(5) (1988) ("FOIA"));<sup>4</sup> see also OIP Op. Ltr. No. 91-16 (Sept. 19, 1991) (draft documents, by their very nature, are typically predecisional and deliberative).

However, "the mere designation of a document as a 'draft' does not by itself exempt a document from public inspection required under the UIPA." OIP Op. Ltr. No. 91-16 at 6 (Sept. 19, 1991). Thus, even though proposed minutes are "draft" documents, they must still be found to be predecisional and deliberative in order to be protected by the "deliberative process privilege." See Petroleum Information Corp. v. Dep't of Interior, 976 F.2d 1429 (D.C. Cir. 1992).

Case law under Exemption 5 of the FOIA has found that the very process by which a "draft" evolves into a "final" document can itself constitute a deliberative process. Thus, "even if a draft document's contents are factual, the disclosure of the draft would frustrate agency decision-making during the drafting and editing of the document because 'the disclosure of editorial judgments--for example, decisions to insert or delete material or to change a draft's focus or emphasis--would stifle the creative thinking and candid exchange of ideas.'" OIP Op. Ltr. No. 91-16 at 5 (Sept. 19, 1991), quoting, Dudman Communications Corp. v. Department of Air Force, 815 F.2d 1565, 1569 (D.C. Cir. 1987); National Wildlife Federation v. U.S. Forest Service, 861 F.2d 1114, 1122 (1988) ("[t]o the extent that [the requester] seeks through its FOIA request to uncover any discrepancies between the finding, projections, and recommendations between the draft[s]

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<sup>4</sup>Exemption 5 of the FOIA protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party . . . in litigation with the agency."

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prepared by lower-level [agency] personnel and those actually adopted . . . , it is attempting to probe the editorial and policy judgments of the decisionmakers"). Further, "public confusion could result if ideas that were purely personal to the authors of draft documents were mistaken for the official position of the agency." City of West Chicago v. United States Nuclear Regulatory Comm'n, 547 F.Supp. 740, 747 (N.D. Ill. 1982).

In this case, however, the "give and take" and the "editorial judgments" involved in arriving at the official version of the minutes is itself exposed to the public. Any revisions or additions to proposed minutes are made by the trustees at meetings open to the public. Indeed, under section 92-9(c), Hawaii Revised Statutes, all or any part of an agency meeting may be recorded by any person in attendance by means of a tape recorder. Therefore, the process by which the final "approved" minutes are formulated is conducted openly before the public. In fact, the amendments or corrections proposed by the trustees to the previous meeting's minutes become part of the minutes of the meeting at which the amendments or corrections are approved. Thus, anyone can reconstruct the proposed minutes by adding or deleting the trustees' amendments, if any, to or from the approved minutes.

For the foregoing reasons, and because the UIPA exceptions to required agency disclosure are to be narrowly construed in favor of disclosure, see OIP Op. Ltr. No. 90-20 at 5, n.2 (June 12, 1990), we do not believe that the proposed minutes of an agency meeting required to be public under the open meetings law are protected under the "deliberative process privilege." Accordingly, we conclude that proposed minutes of public agency meetings are not government records that must remain confidential in order to avoid "the frustration of a legitimate government function."

Consequently, we find that none of the UIPA's exceptions to required agency disclosure applies to the proposed minutes of Board and Committee public meetings that have not yet been approved by the trustees, and, therefore, they must be made available for public inspection and copying under the UIPA, upon request. We note, however, that persons requesting to inspect or

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copy proposed minutes should be on notice that the proposed minutes do not constitute the "official" record of an agency meeting.

Furthermore, we observe that the rationale for concluding that the "deliberative process privilege" does not protect proposed minutes from public disclosure does not apply to drafts of meeting minutes that precede the final draft presented for Board or Committee approval. Disclosure of these earlier drafts would reveal "editorial judgments" found to be protected by this privilege. Thus, the ERS may disclose draft minutes that precede the final draft that is presented for approval, correction, or amendment, but under section 92F-13(3), Hawaii Revised Statutes, we find that the ERS is not required to do so.

We now turn to an examination of the time limit within which the approved minutes of the Board and Committee meetings must be made available for public inspection and copying.

### III. AVAILABILITY OF APPROVED MINUTES OF PUBLIC AGENCY MEETINGS

Although section 92-9(b), Hawaii Revised Statutes, requires the minutes of agency meetings to be "available within thirty days," it is not clear whether those minutes must be available before the expiration of thirty days if the minutes have been officially approved by the agency. Section 1-15, Hawaii Revised Statutes, provides that "[w]here the words of a law are ambiguous: . . . (2) The reason and spirit of the law, and the cause which induced the legislature to enact it, may be considered to discover its true meaning." [Emphasis added.] An "ambiguity" exists "[w]hen there is doubt, doubleness of meaning, or indistinctiveness or uncertainty of an expression used in a statute." State v. Sylva, 61 Haw. 386, 388 (1980).

The "cause which induced the legislature" to enact the open meetings law and the reason for that law are found in section 92-1, Hawaii Revised Statutes, which states:

#### **§92-1 Declaration of policy and intent.**

In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy - the discussions, deliberations, decisions, and

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action of governmental agencies - shall be conducted as openly as possible. To implement this policy the legislature declares that:

- (1) It is the intent of this part to protect the people's right to know;
- (2) The provisions requiring open meetings shall be liberally construed; and
- (3) The provisions providing for exceptions to the open meeting requirements shall be strictly construed against closed meetings.

Haw. Rev. Stat. § 92-1 (1985) (emphases added).

To find that section 92-9(b), Hawaii Revised Statutes, authorizes an agency to withhold minutes from the public until the end of the thirty-day period, notwithstanding the fact that they have been officially approved by the Board or the Committee, would, in our opinion, be contrary to the clearly expressed legislative intent underlying both the open meetings and open records<sup>5</sup> laws. In adopting part I of chapter 92, the Legislature stated that it intended to open up governmental processes to public scrutiny and to protect the "people's right to know." Additionally, the Legislature directed that the open meetings provisions of chapter 92, Hawaii Revised Statutes, "shall be liberally construed." Haw. Rev. Stat. § 92-1(1) (1985).

In accordance with the above policies, we conclude that the minutes of ERS meetings required to be public by part I of chapter 92, Hawaii Revised Statutes, must be made available upon the Board's or the Committee's approval of the proposed minutes, irrespective of the fact that the thirty-day period set forth in section 92-9(b), Hawaii Revised Statutes, has not yet expired. If the proposed minutes of a public agency meeting are approved with amendments or corrections, then the minutes, in their approved form, shall be made available upon correction or

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<sup>5</sup>Chapter 92F, Hawaii Revised Statutes, also declares that it is the policy of the State that the "formation and conduct of public policy--the discussions, deliberations, decisions, and action of government agencies--shall be conducted as openly as possible." Haw. Rev. Stat. § 92F-2 (Supp. 1991). Section 92F-2, Hawaii Revised Statutes, further provides that the UIPA shall be applied and construed to promote its underlying purposes, which include enhancing governmental accountability through a general policy of access to government records.

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amendment by the agency.<sup>6</sup> In any event, the minutes of public agency meetings shall be made available for public inspection and copying within thirty days after the meeting to which they relate, subject to the exception set forth in section 92-9(b), Hawaii Revised Statutes. Haw. Rev. Stat. § 92-9(b) (1985).

In further support of our conclusion, we observe that it appears that the purpose of the thirty-day period specified in the open meetings law is to allow sufficient time for preparation of the minutes by staff. In the Report of the Governor's Committee on Public Records and Privacy (1987) ("Governor's Committee Report"), a government official proposed that "changes [be] made to the current [open meetings] law because the requirement that the minutes be ready within thirty days of the meeting presents logistical problems" and suggested "providing a sixty-day period for use in preparing minutes." Vol. I. Report of the Governor's Committee on Public Records and Privacy 154 (1987) (emphasis added). Thus, if the purpose of the thirty-day period of section 92-9, Hawaii Revised Statutes, is to allow sufficient time for preparation of the minutes, then once those minutes are prepared and approved, we can discern no legitimate reason to delay making them available that would be consistent with the policies underlying chapters 92 and 92F, Hawaii Revised Statutes.

### CONCLUSION

For the reasons stated above, we conclude that none of the UIPA's exceptions to required agency disclosure applies to the proposed minutes of Board and Committee meetings, and, therefore, they must be made available for public inspection and copying under the UIPA, upon request.

We also find that drafts of meeting minutes that precede the final draft presented for Board or Committee approval may be

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<sup>6</sup>We observe that these conclusions concern the timing of the disclosure of approved minutes and do not alter the ERS' obligation under the UIPA to make the proposed minutes available for public inspection and copying upon request.

<sup>7</sup>The Governor's Committee Report's recommendations played an important role in the Legislature's drafting of the UIPA. See S. Stand. Comm. Report. No. 2580, 14th Leg., 1988 Reg. Sess., Haw. S.J. 1093 (1988).

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withheld by the ERS under the "deliberative process privilege" we have found to be encompassed under section 92F-13(3), Hawaii Revised Statutes.

Additionally, we conclude that the minutes of ERS meetings required to be public by part I of chapter 92, Hawaii Revised Statutes, must be made available upon the Board's or the Committee's approval of the proposed minutes, irrespective of the fact that the thirty-day period set forth in section 92-9(b), Hawaii Revised Statutes, has not yet expired. If the proposed minutes are approved with amendments or corrections, then the minutes, in their approved form, shall be made available upon correction by the agency. In any event, the minutes "shall be made available within thirty days" after the meeting to which they relate, subject to the exception set forth in section 92-9(b), Hawaii Revised Statutes. Haw. Rev. Stat. § 92-9(b) (1985).

Very truly yours,

Mimi K. Horiuchi  
Staff Attorney

APPROVED:

Kathleen A. Callaghan  
Director

MKH:sc

c: Celia Jacoby, Deputy Attorney General  
Mr. Desmond J. Byrne